

**AMENDMENTS TO THE DRAWINGS**

The attached sheets of drawings include replacement and annotated drawing sheets of Figure 1, submitted pursuant to 37 CFR §1.121(d).

Attachments:      Replacement sheet  
                         Annotated sheet showing changes

### **REMARKS**

The Applicant has carefully reviewed the Examiner's comments in the Non-Final Office Action dated October 5, 2007.

#### **Amendment to the Specification**

The Specification was objected to because it contains an embedded hyperlink or other form of browser-executable code on line 4 of Page 7. The Specification is amended above to remove the hyperlink on Page 7. No new matter is added.

#### **Amendment to the Drawings**

The Drawings were objected to because all numbers in Figure 1 should be labeled with descriptive legends and label 114 should be shown in Figure 1. Replacement and annotated drawing sheets correcting these defects are attached herewith. No new matter is added.

#### **Status of the Claims**

Claims 1-19 are pending the application. Claims 1-3, 5-14, and 16-19 are original. Claims 4 and 15 are currently amended. No new matter is added.

#### **Claim Objections**

Claim 4 is objected to because of informalities. Claims 4 and 15 are amended to correct the informalities. In particular, claims 4 and 15 now recite Logical Link Control instead of the abbreviation LLC. No new matter is added.

#### **Claim Rejections**

Claims 1-3, 5, 7-9, 11-13, and 16-19 are rejected under 35 §USC 102(e) as being anticipated by published US Patent Application US2005/0147107 to Powers et al. (hereinafter "Powers"). Claims 6 and 14 are rejected under 35 §USC 103(a) as being unpatentable over Powers. Claim 4

stands rejected under 35 §USC 103(a) as being unpatentable over Powers as applied to claim 1, and further in view of Japanese Patent Application JP401101751A to Ootake et al. (hereinafter "Ootake"). Claim 10 stands rejected under 35 §USC 103(a) as being unpatentable over Powers as applied to claim 1, and further in view of US Patent 4,745,593 to Stewart et al. (hereinafter "Stewart").

Applicant has carefully reviewed Powers, Ootake, and Stewart, and respectfully traverses the above rejections. Reconsideration is requested in view of the remarks set forth below.

Independent claims 1, 12, and 17 patentably distinguish over Powers

As stated in the MPEP §2131, "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

Claim 1 recites a method of improving network availability in a segmented network, comprising the steps of periodically transmitting a test message over a plurality of communication links from a source node in communication with a source network segment to a plurality of destination nodes, each of the plurality of destination nodes being in communication with a respective destination network segment, generating, for each of the plurality of destination nodes, a return message if the test message is received at the destination node, determining the status of each of the plurality of communication links in response to the return messages generated by the plurality of destination nodes, and providing the status of the plurality of communication links to each of the plurality of destination nodes that generated a return message.

Independent claims 12 and 17 recite similar subject matter and the remarks set forth below apply to these claims as well.

The Action cites the process described in Figure 3 and paragraphs 0018 and 0024-0028 of Powers as reciting all the elements in Claims 1, 12, and 17.

Powers does not teach or describe a system or method for providing "the status of the plurality of communication links to each of the plurality of destination nodes that generated a return message" as recited in claim 1. Powers also does not disclose providing a "status message" to "each of the destination nodes" as recited in claims 12 and 17.

Powers et al. teach systems and methods for testing Asynchronous Transfer Mode ("ATM") networks in which a central office terminal 60 (Figure 2) interfaces with a network via network interfaces 80 and 85 (Figure 2) to maintain "information on each of the virtual channels and virtual paths that are routed through the central office terminal 60" (Lines 7-9 of Paragraph 0018).

More particularly, Powers et al. describe a method by which the central office terminal 60 communicates with remote terminals 65, however, information on the status of the virtual channels and virtual paths is not maintained by the remote terminals 65. The information on each of the virtual channels and virtual paths, i.e., whether the virtual channel is "up", available or "down", unavailable, is maintained only in the central office terminal database 70 within the central office terminal 60. Thus, the remote terminals 65 do not receive status messages or communication link status from the central office terminal 60. Thus, Powers does not teach or describe a system or method for providing the status of the plurality of communication links to each of the plurality of destination nodes that generated a return message as recited in claim 1.

Powers does not attempt to address the problem of improving network availability in networks, e.g., Ethernet Local Area Networks (LANs) in which a "given node (such as, but not limited to, a host computer, load balancing device, or router) on such a LAN" (Lines 25-27 of Page 1 in the Specification) is not aware of the status of the other nodes. Such networks may be connectionless and support multiple accesses. In addition, such networks may be heavily partitioned into multiple sub-networks or segments. The Applicant instead recites systems and methods for providing improved network availability in which "the status of the plurality of communication links to each of the plurality of destination nodes that generated a return message".

Thus, Powers does not describe all the elements of claim 1, 12, or 17 as is required by MPEP §2131 to make a proper rejection under 35 USC §102(e). Since Powers fails to teach each and every element of claims 1, 12, or 17, the 35 USC §102 (e) Rejection of these claims should be withdrawn.

Since claims 2-11, 13-16, 18, and 19 depend from and add limitations to these independent claims, the 35 USC §102 (e) or 35 USC §103 (a) Rejections of these claims should be withdrawn.

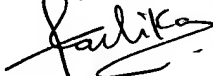
**CONCLUSION**

In view of the foregoing amendments and remarks, Applicants respectfully request the Examiner's reconsideration of this application, and the timely allowance of the pending claims.

To the extent necessary, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account No. 18-1945 under Order No. CDPC-P01-003, and please credit any excess fees to such deposit account, from which the undersigned is authorized to draw.

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Respectfully submitted,

By   
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ANNOTATED SHEET

1/2

**Fig. 1**

